

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AUTHORS GUILD, DAVID BALDACCI,  
MARY BLY, MICHAEL CONNELLY,  
SYLVIA DAY, JONATHAN FRANZEN,  
JOHN GRISHAM, ELIN HILDERBRAND,  
CHRISTINA BAKER KLINE, MAYA  
SHANBHAG LANG, VICTOR LAVALLE,  
GEORGE R.R. MARTIN, JODI PICOULT,  
DOUGLAS PRESTON, ROXANA  
ROBINSON, GEORGE SAUNDERS, SCOTT  
TUROW, and RACHEL VAIL, individually and  
on behalf of others similarly situated,

Plaintiffs,

v.

OPENAI INC., OPENAI OPCO LLC, OPENAI  
GP LLC, OPENAI LLC, OPENAI GLOBAL  
LLC, OAI CORPORATION LLC, OPENAI  
HOLDINGS LLC, OPENAI STARTUP FUND  
I LP, OPENAI STARTUP FUND GP I  
LLC, OPENAI STARTUP FUND  
MANAGEMENT LLC, and MICROSOFT  
CORPORATION,

Defendants.

JONATHAN ALTER, KAI BIRD, TAYLOR  
BRANCH, RICH COHEN, EUGENE LINDEN,  
DANIEL OKRENT, JULIAN SANCTON,  
HAMPTON SIDES, STACY SCHIFF, JAMES  
SHAPIRO, JIA TOLENTINO, and SIMON  
WINCHESTER, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

OPENAI, INC., OPENAI GP, LLC, OPENAI,  
LLC, OPENAI OPCO LLC, OPENAI GLOBAL  
LLC, OAI CORPORATION, LLC, OPENAI  
HOLDINGS, LLC, and MICROSOFT  
CORPORATION,

Defendants.

Case No. 1:23-cv-08292-SHS;  
Case No. 1:23-cv-10211-SHS;  
Case No. 1:24-cv-00084-SHS.

**STIPULATION AND [PROPOSED]  
ORDER STRIKING CLASS  
ALLEGATIONS IN THE  
*BASBANES* COMPLAINT AND  
SETTING FORTH A CASE  
SCHEDULE**

NICHOLAS A. BASBANES and NICHOLAS NGAGOYEANES (professionally known as Nicholas Gage), individually and on behalf of all others similarly situated,

Plaintiffs,

v.

MICROSOFT CORPORATION, OPENAI, INC., OPENAI GP, L.L.C., OPENAI HOLDINGS, LLC, OAI CORPORATION, LLC, OPENAI GLOBAL, LLC, OPENAI, L.L.C., and OPENAI OPCO, LLC,

Defendants.

**STIPULATION AND [PROPOSED] ORDER REGARDING BASBANES LITIGATION**

This stipulation is made by and among Interim Co-Lead Class Counsel for the Author Classes on behalf of the Author Plaintiffs<sup>1</sup>; Counsel for Nicholas A. Basbanes and Nicholas Ngagoyeanes (professionally known as Nicholas Gage) (collectively, “*Basbanes* Plaintiffs”, and together with Author Plaintiffs, “Plaintiffs”); and Counsel for OpenAI, Inc., OpenAI OPCO LLC, OpenAI GP LLC, OpenAI LLC, OpenAI Global LLC, OAI Corporation LLC, OpenAI Holdings LLC, OpenAI Startup Fund I LP, OpenAI Startup Fund GP I LLC, OpenAI Startup Fund Management LLC (collectively “OpenAI”) and Microsoft Corporation (collectively “Defendants” and, together with the Plaintiffs, the “Parties”).

**WHEREAS**, on September 19, 2023 and November 21, 2023 the Author Plaintiffs filed their respective initial fiction and non-fiction Class Action Complaints; and the Author Plaintiffs then together filed their First Consolidated Class Action Complaint on February 5, 2024 against Defendants (Dkt. No. 69<sup>2</sup>);

**WHEREAS**, on January 5, 2024, the *Basbanes* Plaintiffs filed a Class Action Complaint, No. 1:24-cv-00084-SHS, against Defendants (*Basbanes* Dkt. No. 1);

**WHEREAS**, on February 6, 2024, this Court appointed the law firms Lieff, Cabraser, Heimann & Bernstein LLP, Susman Godfrey LLP, and Cowan DeBaets Abrahams & Sheppard

---

<sup>1</sup> Author Plaintiffs are Jonathan Alter, Authors Guild, David Baldacci, Mary Bly, Kai Bird, Taylor Branch, Rich Cohen, Michael Connelly, Sylvia Day, Jonathan Franzen, John Grisham, Elin Hilderbrand, Christina Baker Kline, Maya Shanbhag Lang (pending her dismissal), Victor Lavalle, Eugene Linden, George R.R. Martin, Daniel Okrent, Jodi Picoult, Douglas Preston, Roxana Robinson, Julian Sancton, George Saunders, Hampton Sides, Stacy Schiff, James Shapiro, Jia Tolentino, Scott Turow, Rachel Vail, and Simon Winchester.

<sup>2</sup> References to “Dkt.” refer to the *Authors Guild et al. v. OpenAI et al.* matter, No. 1:23-cv-08292-SHS, unless otherwise indicated to refer to the *Basbanes* matter.

LLP as Interim Co-Lead Class Counsel of the Author Classes, and consolidated for pretrial purposes the *Basbanes* action with the Author action (Dkt. No. 70; *Basbanes* Dkt. No. 32);

**WHEREAS**, Counsel for *Basbanes* has informed Interim Co-Lead Class Counsel and Counsel for Defendants that he intends to proceed on an individual basis for the claims of Messrs. Basbanes and Gage; and

**WHEREAS**, on September 13, 2024, the Court directed the parties to “file a joint stipulation, if possible, by **September 27, 2024**, regarding the potential dismissal of certain claims” in the above-referenced matter, stayed this case until September 27, 2024, and, in the same order (Dkt. No. 202), granted an extension of time for fact discovery until December 20, 2024;

**NOW, THEREFORE**, in the interests of effectuating the Court’s prior rulings, and adding further clarity and efficiency into the schedule, it is here by Stipulated and Ordered as follows:

1. The Rule 23 allegations in the *Basbanes* Complaint, *Basbanes* Dkt. No. 1, namely, Paragraphs 120-132 and Paragraphs 149 (a)-(c), are hereby dismissed;
2. Within two weeks of a ruling on class certification in the consolidated class action litigation brought by the Author Plaintiffs, counsel for the *Basbanes* Plaintiffs and counsel for Defendants will confer regarding future proceedings, if any, for the *Basbanes* litigation and submit a joint statement to the Court within one week of the aforementioned conferral; and
3. The *Basbanes* case is stayed pending issuance of a Court order following the joint submission referenced in Paragraph 2 above.

Dated: September 26, 2024

SO STIPULATED AND AGREED,

/s/ Rachel Geman

Rachel Geman  
Anna Freymann  
Wesley J. Dozier (*pro hac vice*)  
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
250 Hudson Street, 8th Floor  
New York, NY 10013-1413  
Telephone: 212.355.9500  
rgeman@lchb.com  
afreymann@lchb.com  
wdozier@lchb.com

Reilly T. Stoler (*pro hac vice*)  
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Telephone: 415.956.1000  
rstoler@lchb.com

/s/ Rohit Nath

Justin A. Nelson (*pro hac vice*)  
Alejandra C. Salinas (*pro hac vice*)  
SUSMAN GODFREY L.L.P.  
1000 Louisiana Street, Suite 5100  
Houston, TX 77002  
Telephone: 713-651-9366  
jnelson@susmangodfrey.com  
asalinas@susmangodfrey.com

Rohit D. Nath (*pro hac vice*)  
SUSMAN GODFREY L.L.P.  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, California 90067  
Telephone: 310-789-3100  
rnath@susmangodfrey.com

Charlotte Lepic  
J. Craig Smyser  
SUSMAN GODFREY L.L.P.  
1901 Avenue of the Americas, 32nd Floor  
New York, New York 10019  
Telephone: 212-336-8330  
clepic@susmangodfrey.com  
csmysyer@susmangodfrey.com

/s/ Scott Sholder

Scott J. Sholder  
CeCe M. Cole  
COWAN DEBAETS ABRAHAMS & SHEPPARD LLP  
41 Madison Avenue, 38th Floor

New York, New York 10010  
Telephone: 212-974-7474  
ssholder@cdas.com  
ccole@cdas.com

***Interim Co-Lead Class Counsel***

/s/ Michael P. Richter  
Michael P. Richter  
Bryan M. Goldstein  
107 Greenwich Street, 25th Floor  
New York, New York 10006  
Tel.: (212) 682-1800  
mrichter@ghsklaw.com  
bgoldstein@ghsklaw.com

***Attorneys for Basbanes Plaintiffs***

/s/ Paven Malhotra  
KEKER, VAN NEST & PETERS LLP  
Paven Malhotra  
pmalhotra@keker.com  
633 Battery Street  
San Francisco, CA 94111  
Telephone: 415-676-2238

LATHAM & WATKINS LLP  
Andrew M. Gass (pro hac vice)  
andrew.gass@lw.com  
Joseph R. Wetzel  
joseph.wetzel@lw.com  
505 Montgomery Street, Suite 2000  
San Francisco, CA 94111  
Telephone: 415-391-0600

Sarang V. Damle  
sy.damle@lw.com  
555 Eleventh Street, NW, Suite 1000  
Washington, D.C. 20004  
Telephone: 202-637-2200

Allison L. Stillman  
alli.stillman@lw.com  
1271 Avenue of the Americas  
New York, NY 10020  
Telephone: 212-751-4864

MORRISON & FOERSTER LLP  
Joseph C. Gratz (pro hac vice)  
[jgratz@mofo.com](mailto:jgratz@mofo.com)  
Vera Ranieri (pro hac vice forthcoming)  
[vranieri@mofo.com](mailto:vranieri@mofo.com)  
425 Market Street  
San Francisco, CA 94105  
Telephone: 415-258-7522

Rose Lee (pro hac vice)  
[roselee@mofo.com](mailto:roselee@mofo.com)  
707 Wilshire Boulevard, Suite 6000  
Los Angeles, CA 90017-3543  
Telephone: 213-892-5454

***Attorneys for OpenAI Defendants***

/s/ Jeffrey S. Jacobson  
FAEGRE DRINKER BIDDLE & REATH LLP

Jeffrey S. Jacobson  
FAEGRE DRINKER BIDDLE & REATH LLP  
1177 Avenue of the Americas, 41st Floor  
New York, NY 10036  
Telephone: 212-248-3191

Annette Louise Hurst  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
(SAN FRANCISCO)  
The Orrick Building  
405 Howard Street  
San Francisco, CA 94105  
Telephone: (415) 773-4585

Christopher Cariello  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
51 West 52nd Street  
New York, NY 10019  
Telephone: 212-506-3778

Jared Barrett Briant  
FAEGRE DRINKER BIDDLE & REATH LLP  
1144 Fifteenth Street  
Suite 3400  
Denver, CO 80202  
Telephone: 303-607-3588

Marc Shapiro  
ORRICK, HERRINGTON, & SUTCLIFFE LLP  
51 West 52nd Street  
New York, NY 10019  
Telephone: 212-506-3521

Sheryl Koval Garko  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
222 Berkley Street  
Boston, MA 02116  
Telephone: 617-880-1800

Laura Brooks Najemy  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
222 Berkley Street  
Boston, MA 02116  
Telephone: 617-880-1800

*Attorneys for Microsoft Corporation*

Date: \_\_\_\_\_

**SO ORDERED:**

---

Judge Ona T. Wang

**PROOF OF SERVICE VIA ECF**

On September 26, 2024, I caused to be served the following document on all counsel of record via ECF.

**STIPULATION AND [PROPOSED] ORDER STRIKING CLASS ALLEGATIONS IN  
THE BASBANES COMPLAINT AND SETTING FORTH A CASE SCHEDULE**

*/s/ Rachel Geman*  
Rachel Geman